

REMARKS

Claim 1 has been amended.

Drawings

A replacement sheet including FIGS. 4 and 5 are included herewith. Reference numeral 40 indicating uterine tissue has been added as it was unintentionally omitted in the original. The reference numeral 40 is present in the specification on page 11 line 18.

Withdrawal of the objection to the drawings is respectfully requested. Specifically, the Examiner states that the "barbs" claimed in claims 4 and 14 are not illustrated. Applicant points out that the drawings and description show and describe a "barbed head 24". It is believed that a barbed head includes barbs and is adequately shown and described.

Specification

The specification has been objection to as not providing antecedent basis for the claimed subject matter. Specifically, the Examiner states that the "barbs" as claimed in claim 4 and 14 are not described. Applicant points out that the specification describes a "barbed head 24" on page 9, line 17, and page 13, lines 1-2. It is

believed that a barbed head includes barbs and is adequately shown and described.

Double Patenting

Claims 1, 11 and 20 are rejected on the grounds of nonstatutory obviousness-type double patenting over claims 1 and 14 of U.S. Patent No. 6,286,510B1. Withdrawal of the rejection is respectfully requested for the following reasons. U.S. Patent No. 6,286,510B1 claims "an insert for insertion into the oviduct through the opening leading from the uterine cavity to the oviduct" and "an engagement element supported by the insert for securing the insert to the oviduct." Since the engagement element is carried by the insert, and the insert is for insertion into the oviduct, the engagement element is also for insertion into the oviduct. This is supported by the language for "securing to the oviduct". Claim 14 specifically claims an engagement element for engaging the oviduct. Thus, this patent specifies that an engagement element carried by the insert is for engaging the oviduct.

In the present application, claims 1, 11 and 20 specifically claim that a peripheral anchor portion extends from the base or body and engages uterine tissue. The most profound difference is that the peripheral anchor is specifically for engaging the uterine tissue while the engagement element of patent '510 is specifically for

engaging the oviduct. These are two very specific and different tissues in different areas requiring different structures to work. The specific structure required for the engaging the uterine tissue is a peripheral anchor. This cannot be the case in patent '510 since that device requires an engagement element carried by the insert and the insert must pass through the opening and enter the oviduct.

Claims 1, 11 and 20 are rejected on the grounds of nonstatutory obviousness-type double patenting over claims 1, 6 and 11 of U.S. Patent No. 6,371,118B1. Withdrawal of the rejection is respectfully requested for the following reasons. U.S. Patent No. 6,371,118B1 claims an anchor carried by an insert and the insert is for insertion through the opening into the oviduct. Since the engagement element is carried by the insert, and the insert is for insertion into the oviduct, the engagement element is also for insertion into the oviduct. Thus, this patent specifies that an engagement element carried by the insert is for engaging the oviduct.

As with patent '510, the most profound difference the present invention as claimed and patent '118 is that the peripheral anchor is specifically for engaging the uterine tissue while the engagement element of patent '118 is specifically for engaging the oviduct. These are two very specific and different tissues in different areas requiring

different structures to work. The specific structure required for engaging the uterine tissue is a **peripheral** anchor. This cannot be the case in patent '118 since that device requires an engagement element carried by the insert and the insert must pass through the opening and enter the oviduct.

35 U.S.C. 102§(b) rejections

Claims 1-4, 7-14, and 17-20 stand rejected under 35 U.S.C. §102(b) as being anticipated by Harrington et al. Withdrawal of the rejection is requested for the following reasons.

With respect to claim 1, claim 1 comprises a body with a base having a periphery. A seal is carried by the body and overlies the uterine tissue around the opening. Claim 1 has also been amended to specifically claim a "peripheral anchor portion extending from the base for engaging the uterine tissue leading to the opening". Thus, the anchor is (1) peripheral, (2) extends from the base, and (3) is for engaging the uterine tissue.

Harrington et al. discloses a device that includes an electrode plug 24 for insertion into the oviduct. As in FIGS. 6a-c, the proximal section of the plug may have a larger diameter cross section to form a shoulder or flange in order to limit insertion of the plug into the fallopian

tube (col. 7, lines 31-34). Harrington does not teach or suggest a seal engaging the uterine wall carried by the body. At most Harrington may have a body, but no separate seal element. Additionally, there would be no fibroblast ingrowth into the larger diameter cross section, only into the distal electrode inserted through the opening (col. 4, lines 47-49). Since Harrington specifies possible ingrowth at the electrode and not at the enlargement, there is actually a teaching away of having ingrowth at the uterine wall instead of in the oviduct.

With regard to the peripheral anchor, Harrington does not teach or suggest such an element. Specifically, (1) the element the Examiner considers an anchor (plug 24) is an electrode inserted into the oviduct and extends centrally from the body, not peripherally. (2) does not extend from a base or body but is the base or body, and (3) is for engaging tissue within the oviduct and does not engage uterine tissue.

Thus, Harrington does not teach a (1) peripheral anchor, (2) for engaging uterine tissue, or (3) a seal carried by a body for overlying and engaging uterine tissue leading to the opening and receiving fibroblast in-growth. Since each and every element of the invention as claimed in claim 1 has not been taught by Harrington et al. there can be no anticipation.

With regard to claim 2, Harrington does not teach a "plurality of spikes extending from the periphery of the base" rather what is taught is an electrode plug having a screw thread 49 outer contour." (col. 7, lines 33-34). This most emphatically is not a plurality of spikes. Since each and every element of the invention as claimed in claim 1 has not been taught by Harrington et al. there can be no anticipation.

With regard to claims 3 and 4, applicant does not understand the reference. The structure shown in 3b is an electrode plug 24 with a plurality of electrodes thereon. These are not barbs and do not act as such. They provide heat to the tissue damaging it and causing it to shrink around the plug. No barbs are disclosed, suggested, used or needed in this device.

With regard to claims 7 and 8, they are believed to be in condition for allowance for the same reasons as claim 1.

With regard to claim 9, Harrington does not teach a seal overlying the opening and engaging the uterine tissue, rather what is taught is an electrode within the opening that engages the oviduct tissue and may have ingrowth. There is no suggestion that any material be present to stimulate ingrowth, rather it is simply a porous material to encourage or allow ingrowth caused by the damage generated by the electrode.

With regard to claim 10, applicant finds no reference to biodegradable material in the Examiner's cite, only the different materials useful for an electrode such as electrically conductive materials like stainless steel, copper and the like. These are generally not considered biodegradable. Since the body must have electrodes, the body cannot be biodegradable.

With regard to claim 11, it is believed to be in condition for allowance for the same reasons as claim 1. Again, if element 38 is a seal, it cannot be a body and therefore the body must be plug 24. Element 38 does not receive fibroblast ingrowth, that occurs at the distal electrode. Applicant is unsure what Examiner considers an anchor in his rejection, but it cannot be peripheral if it extends from the body which is 24. Additionally, anything carried by plug 24 cannot engage the uterine tissue because it is inserted through the opening into the oviduct.

Claims 12-14 and 17-19 are believed to be allowable for the same reasons discussed in regards to claims 2-4, and 7-11 respectively.

A discussion of the reasons for the rejection of claim 20 has been omitted by the Examiner, but is believed to be allowable for the same reasons described above.

In view of the foregoing, it is submitted that each of the claims is in condition for allowance. Withdrawal of the rejections and allowance of the claims is respectfully requested. Should there be any questions or remaining issues, Examiner is cordially invited to telephone the undersigned attorney for a speedy resolution.

Respectfully requested,

A handwritten signature in black ink, appearing to read 'Robert A. Parsons', written in a cursive style.

Robert A. Parsons
Attorney for Applicant
Registration No. 32,713

22 May 2006
4000 North Central Ave.
Suite 1220
Phoenix, Arizona 85012
(602) 252-7494



FIG. 5

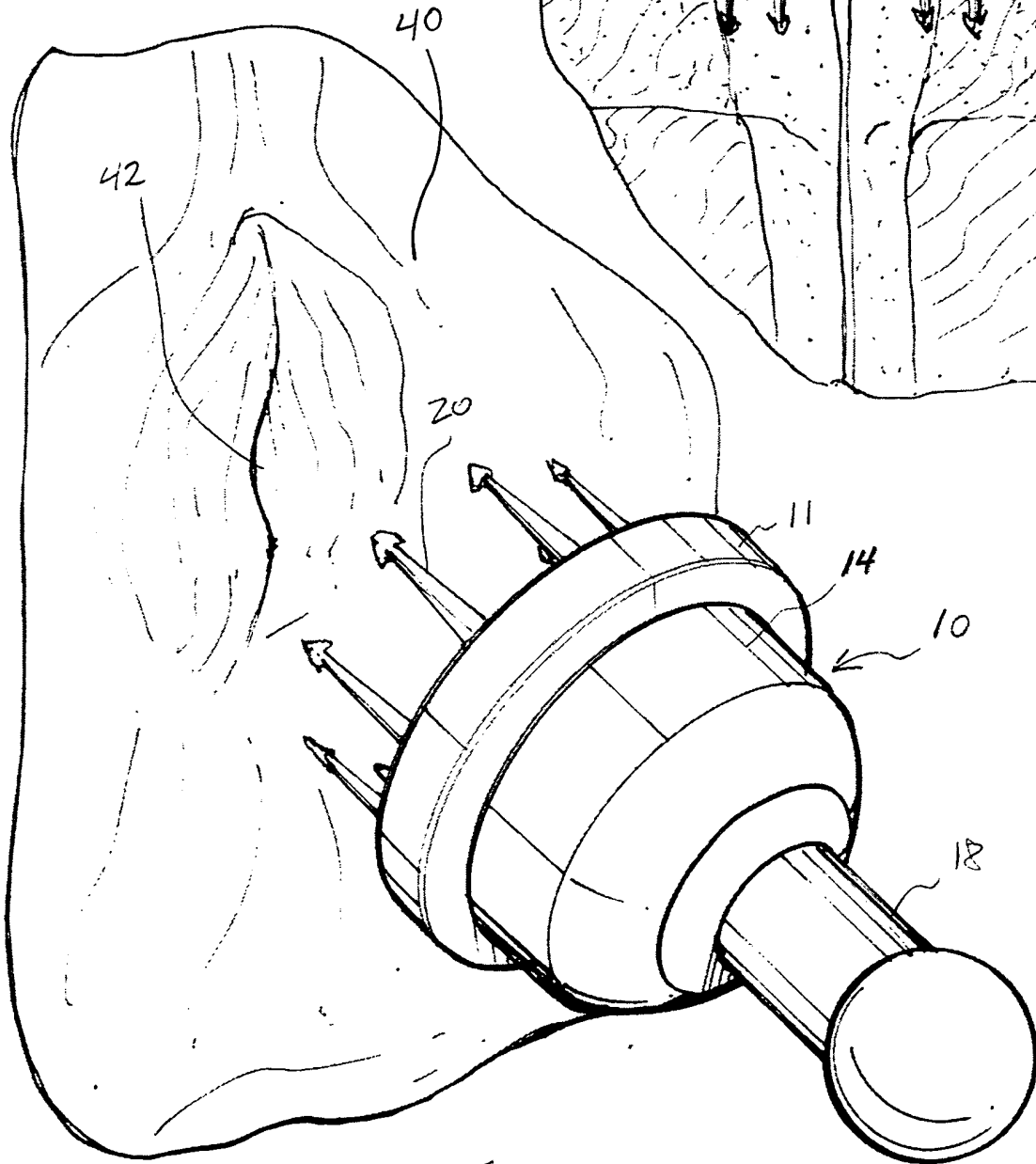
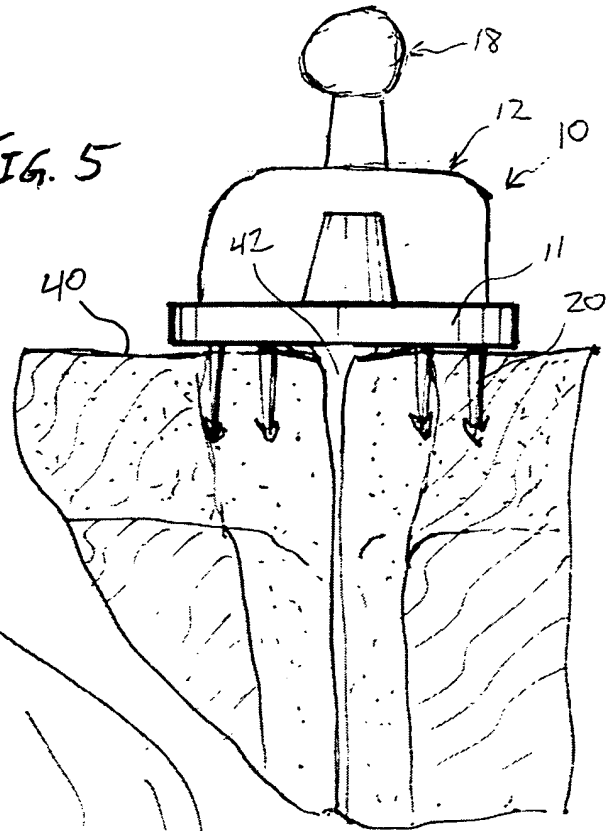


FIG. 4